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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) No.
)
 Plaintiff,)
) COMPLAINT
 v.)
)
 VINCENT J. KILDUFF,)
)
 Defendant.)

Now comes the United States of America, by and through its undersigned counsel, complains and alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action brought by the United States to reduce to judgment outstanding federal tax assessments against defendant VINCENT J. KILDUFF.

2. This action is commenced pursuant to Sections 7401 and 7402 of the Internal Revenue Code of 1986, at the direction of the Attorney General of the United States, with the authorization and sanction, and at the request of the Division Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury.

3. Jurisdiction over this action is conferred upon this Court by Title 28, United States Code, Sections 1340 and 1345, and under Section 7402(a) of the Internal Revenue Code of 1986.

4. Venue is proper in the Northern District of California because at the time the liabilities

1 accrued, defendant taxpayer, VINCENT J. KILDUFF resides within this judicial district. 28 U.S.C.,
 2 Sections 1391 and 1396.

3 IDENTIFICATION OF DEFENDANTS

4 5. Defendant VINCENT J. KILDUFF resides at 15119 Union Avenue, San Jose, California,
 5 which is within the jurisdiction of this Court.

6 REDUCE INCOME TAX ASSESSMENTS TO JUDGMENT

7 6. The United States realleges the allegations in paragraphs 1 through 5 above, as if fully set
 8 forth herein.

9 7. A delegate of the Secretary of the Treasury made assessments against VINCENT J.
 10 KILDUFF for unpaid federal income taxes (Form 1040), penalties and interest as set forth below:

TAX YEAR	TAX ASSESSMENT DATES	ASSESSED INCOME TAX AMOUNTS	UNPAID BALANCE OF TAXES PENALTIES AND INTEREST AS OF December 21, 2018
2006	1/12/2009	\$ 23,556.00	\$ 25,707.67
2008	12/28/2009	\$ 34,376.00	\$ 48,062.60

16
 17 8. Despite timely notice and demand for payment of the taxes, penalties, and interest
 18 described in paragraph 7 above, defendant VINCENT J. KILDUFF has neglected, failed, or refused to
 19 pay the taxes, penalties and interest described in paragraph 7 above, and there remains due and owing on
 20 said assessments, as of December 21, 2018, the sum of \$73,770.27, plus accrued interest and penalties
 21 and other statutory additions as provided by law, minus any credits.

22 WHEREFORE, the plaintiff, United States of America, prays for the following relief:

23 1. That this Court determine and adjudge that VINCENT J. KILDUFF is personally liable to
 24 the United States for the sum of \$73,770.27, plus interest and statutory additions, as provided by law,
 25 that have accrued, and continue to accrue, since December 21, 2018 until paid; and that a judgment in
 26 that amount be entered against VINCENT J. KILDUFF and in favor of the United States of America;

27 //

28 //

- 1 2. That the United States of America be granted its costs and attorneys' fees; and,
- 2 3. For such other and further relief as is just and proper.

3 Respectfully submitted,

4 ALEX G. TSE
5 United States Attorney

6 /s/ Thomas Moore
7 THOMAS MOORE
8 Assistant United States Attorney
Chief, Tax Division

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff	3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant	4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country	3	3	Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance	PERSONAL INJURY	PERSONAL INJURY	625 Drug Related Seizure of Property 21 USC § 881	422 Appeal 28 USC § 158	375 False Claims Act
120 Marine	310 Airplane	365 Personal Injury – Product Liability	690 Other	423 Withdrawal 28 USC § 157	376 Qui Tam (31 USC § 3729(a))
130 Miller Act	315 Airplane Product Liability	367 Health Care/Pharmaceutical Personal Injury Product Liability			400 State Reapportionment
140 Negotiable Instrument	320 Assault, Libel & Slander	330 Federal Employers' Liability			410 Antitrust
150 Recovery of Overpayment Of Veteran's Benefits	340 Marine	345 Marine Product Liability			430 Banks and Banking
151 Medicare Act	350 Motor Vehicle	355 Motor Vehicle Product Liability			450 Commerce
152 Recovery of Defaulted Student Loans (Excludes Veterans)	360 Other Personal Injury	362 Personal Injury -Medical Malpractice			460 Deportation
153 Recovery of Overpayment of Veteran's Benefits					470 Racketeer Influenced & Corrupt Organizations
160 Stockholders' Suits					480 Consumer Credit
190 Other Contract					490 Cable/Sat TV
195 Contract Product Liability					850 Securities/Commodities/ Exchange
196 Franchise					890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			891 Agricultural Acts
210 Land Condemnation	440 Other Civil Rights	HABEAS CORPUS			893 Environmental Matters
220 Foreclosure	441 Voting	463 Alien Detainee			895 Freedom of Information Act
230 Rent Lease & Ejectment	442 Employment	510 Motions to Vacate Sentence			896 Arbitration
240 Torts to Land	443 Housing/ Accommodations	530 General			899 Administrative Procedure Act/Review or Appeal of Agency Decision
245 Tort Product Liability	445 Amer. w/Disabilities– Employment	535 Death Penalty			950 Constitutionality of State Statutes
290 All Other Real Property	446 Amer. w/Disabilities–Other	OTHER			
	448 Education	540 Mandamus & Other			
		550 Civil Rights			
		555 Prison Condition			
		560 Civil Detainee– Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding	2 Removed from State Court	3 Remanded from Appellate Court	4 Reinstated or Reopened	5 Transferred from Another District (specify)	6 Multidistrict Litigation–Transfer	8 Multidistrict Litigation–Direct File
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VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, Fed. R. Civ. P.

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

SAN FRANCISCO/OAKLAND

SAN JOSE

EUREKA-MCKINLEYVILLE

DATE

SIGNATURE OF ATTORNEY OF RECORD

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 - (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 - (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.

Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Federal Rule of Civil Procedure 23.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: "the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated."

Date and Attorney Signature. Date and sign the civil cover sheet.